

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

STEPHEN SONG, as an individual and)	Case No. C 10-03583 SC
on behalf of all others similarly)	
situated,) ORDER DENYING MOTION FOR
) PRELIMINARY APPROVAL OF
Plaintiffs,) <u>CLASS ACTION SETTLEMENT</u>
vs.)
)
KLM GROUP, INC. dba KLM ONSITE)	
SOLUTIONS, a Pennsylvania)	
corporation; and DOES 1 through)	
20, inclusive,)
)
Defendants.)
)

Now before the Court is Plaintiff Stephen Song's ("Plaintiff") Motion for Preliminary Approval of Class Action Settlement. ECF No. 37 ("Motion"). Defendant KLM Group, Inc. ("Defendant") has filed a Statement of Non-Opposition to the Motion. ECF No. 38. In support of the Motion, Plaintiff has filed the Settlement Agreement, ECF No. 36, ("Settlement"), as well as the proposed settlement notice, Settlement Ex. 1 ("Notice"), and the proposed claim form, Settlement Ex. 2 ("Claim Form").

Having reviewed the papers submitted, the Court finds that that it cannot grant the relief requested because the "Class Representative Service Payment" is inappropriate. See Settlement § 6.3. Plaintiff, as class representative, seeks an additional payment of \$2,500 because he "provided documents to Class Counsel," "reviewed a substantial number of documents," and "was on stand by

1 and made himself available during both of the settlement
2 conferences." Id.; Mot. at 18-19. The Court finds these actions
3 do not justify an additional payment to Plaintiff of \$2,500, which
4 is five percent of the total settlement and approximately eight
5 times the amount of the average award to the other class members.
6 The Court would view a Class Representative Service Payment which
7 is roughly three times larger than the average class member award
8 as more appropriate.

9 The district court does not have the ability to "delete,
10 modify, or substitute certain provisions" of a proposed settlement.
11 Hanlon v. Chrysler Corp., 150 F.3d 1011, 1026 (9th Cir. 1998)
12 (quotations omitted). Accordingly, the Court DENIES Plaintiff
13 Stephen Song's Motion for Preliminary Approval of Class Action
14 Settlement. The Court would be willing to reconsider its decision
15 if the parties adjust the Class Representative Service Payment
16 reflected in the Settlement Agreement.

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18 IT IS SO ORDERED.

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20 Dated: October 27, 2011

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22 UNITED STATES DISTRICT JUDGE
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